

(d) Certificate Required for Variable Rate Securities. In the case of any Additional Parity Securities that are being issued as Variable Rate Securities, a certificate signed by an Independent Accountant, the President of the Governing Body or the County's Director of Finance certifying that, immediately following the issuance of such Additional Parity Securities, the aggregate principal amount of all outstanding Variable Rate Securities would not exceed 50% of the aggregate principal amount of all outstanding Parity Securities;

(e) Opinion of Bond Counsel Respecting Previously Issued Parity Securities. An opinion of Bond Counsel that (i) the issuance of the Additional Parity Securities will not adversely affect the exemption from federal income taxation of interest payable on the Parity Securities theretofore issued, and (ii) the Additional Parity Securities, when issued, will be entitled to the benefit and security of this Indenture in like manner as Parity Securities theretofore issued under and pursuant to this Indenture;

(f) Opinion of Independent Counsel. An opinion, acceptable to the Trustee and dated as of the date of the issuance of such Additional Parity Securities, of Independent Counsel acceptable to the Trustee [which Independent Counsel may, but need not, be the Bond Counsel rendering the opinion required by subsection (g) of this section] approving the forms of all documents required by the preceding portions of this section to be delivered to the Trustee and stating that they comply with the applicable requirements of this Article X; and

(g) Opinion of Bond Counsel as to Validity of Additional Parity Securities. An opinion, dated as of the date of the issuance of such Additional Parity Securities, of Bond Counsel approving the validity of such Additional Parity Securities.

As used in this Section 10.2, the term "Revenue Certificate" means a certificate signed by an Independent Accountant, the President of the Governing Body or the County's Director of Finance that satisfies whichever of the following is applicable:

(I) If such Revenue Certificate is delivered with respect to Additional Parity Securities issued prior to October 1, 2007, such certificate shall state the following:

(i) the sum of (A) the Prior Years' Surplus as of the beginning of the Fiscal Year that immediately preceded the Fiscal Year in which such certificate is delivered and (B) the Net Revenues Available for Debt Service during the then most recently completed Fiscal Year or during any period of twelve consecutive months in the eighteen-month period next preceding the date of issuance of the proposed Additional Parity Securities was not less than one hundred and five percent (105%) of the Maximum Annual Debt Service payable during the then current or any succeeding Fiscal Year with respect to the then outstanding Parity Securities and the Additional Parity Securities with respect to which such certificate is made; and

(ii) the Net Revenues Available for Debt Service during the then most recently completed Fiscal Year or during any period of twelve consecutive months in the eighteen-month period next preceding the date of issuance of the proposed Additional Parity Securities was not less than seventy-five percent (75%) of the Maximum Annual Debt Service payable during the then current or any succeeding Fiscal Year with respect to the then outstanding Parity Securities and the Additional Parity Securities with respect to which such certificate is made; or

(II) If such Revenue Certificate is delivered with respect to Additional Parity Securities issued on or after October 1, 2007, such certificate shall state that the Net Revenues Available for Debt Service during the then most recently completed Fiscal Year or during any period of twelve consecutive months in the eighteen-month period next preceding the date of issuance of the proposed Additional Parity Securities was not less than one hundred and five percent (105%) of the Maximum Annual Debt Service payable during the then current or any succeeding Fiscal Year with respect to the then outstanding Parity Securities and the Additional Parity Securities with respect to which such certificate is made.

If rates and charges for services furnished by the System were increased and put into effect by the County after the beginning of the Fiscal Year or other twelve-month period to which a Revenue Certificate refers and not thereafter reduced, an Independent Engineer may certify the amount of gross revenues from the System that would have been received by the County had such increased rates and charges been in effect during the entire Fiscal Year or other twelve-month period, and the Independent Accountant, the President of the Governing Body or the County's Director of Finance, as the case may be, preparing and signing the Revenue Certificate, may compute Net Revenues Available for Debt Service during such Fiscal Year or other twelve-month period based on the amount of revenues that would have been derived from the System during such period with such increased rates and charges, as so certified by such Independent Engineer.

As used in this Section 10.2, the term "Revenue Forecast" means a report prepared by an Independent Engineer with respect to a period that shall begin on the first day of the Fiscal Year that succeeds the Fiscal Year in which the proposed Additional Parity Securities are issued and that shall not be longer than five Fiscal Years (such period being herein called the "Forecast Period"), which report shall make the following projections with respect to the last Fiscal Year in the Forecast Period (such year being herein called the "Test Year"):

(I) If such Revenue Forecast is delivered with respect to Additional Parity Securities issued prior to October 1, 2007,

(i) the sum of (A) the projected Prior Years' Surplus as of the beginning of the Test Year and (B) the projected Net Revenues Available for Debt Service for the Test Year shall not be less than one hundred and five percent (105%) of the Maximum Annual Debt Service payable during the Test Year or any succeeding Fiscal Year with respect to the then outstanding Parity Securities and the Additional Parity Securities with respect to which such report is made; and

(ii) the projected Net Revenues Available for Debt Service for the Test Year shall not be less than seventy-five percent (75%) of the Maximum Annual Debt Service payable during the Test Year or any succeeding Fiscal Year with respect to the then outstanding Parity Securities and the Additional Parity Securities with respect to which such report is made.

(II) If such Revenue Forecast is delivered with respect to Additional Parity Securities issued on or after October 1, 2007, the projected Net Revenues Available for Debt Service for the Test Year shall not be less than one hundred and five percent (105%) of the Maximum Annual Debt Service payable during the Test Year or any succeeding Fiscal Year with respect to the then outstanding Parity Securities and the Additional Parity Securities with respect to which such report is made.

In preparing its Revenue Forecast, the Independent Engineer shall be entitled (a) to make projections with respect to the rates and charges to be imposed for services furnished by the System during each of the Fiscal Years in the Forecast Period (so long as such Independent Engineer certifies, with respect to any projected rates and charges that are higher than the actual rates and charges in effect as of the date of the Revenue Forecast, that such projected rates and charges would be reasonable for public sanitary sewer systems similar in size and character to the System) and (b) to rely upon estimates prepared by an Independent Investment Advisor with respect to the aggregate amount of debt service on the Parity Securities to become due and payable during each of the Fiscal Years in the Forecast Period.

Upon receipt of the documents required by the provisions of this section to be furnished to it, the Trustee shall, unless it has cause to believe any of the statements set out in said documents to be incorrect, thereupon acknowledge its receipt of the Supplemental Indenture so presented and, if required by pertinent law, cause the same to be filed for record at the expense of the County in the public office or offices in the State of Alabama in which such document is then required by law to be filed in order to constitute constructive notice thereof. The Trustee shall then authenticate (or direct the applicable Paying Agent to authenticate) the Additional Parity Securities with respect to which the said documents shall have been provided and shall, upon receipt of evidence satisfactory to it that the County has received the purchase price or other consideration therefor, deliver (or direct the applicable Paying Agent to deliver) such Additional Parity Securities to the Person or Persons to whom the Resolution provided for in subsection (b) of this section directed that they be delivered.

**Section 10.3 Subordinate Indebtedness Permitted.** Nothing contained herein shall be construed as a restriction upon the right of the County to issue subordinate lien bonds or warrants or other obligations secured by a pledge of the Pledged Revenues that is subject and subordinate in all respects to the pledge of revenues herein made or provided for the payment of the Parity Securities.

**Section 10.4 Related Obligations.** In connection with the initial issuance of any series of Parity Securities, the County may obtain or cause to be obtained letters of credit, lines of credit,



bond insurance or similar obligations, agreements or instruments (herein collectively called "Credit Facilities") securing or providing for the payment of all or a portion of the principal or redemption price of or interest on that series of Parity Securities or providing for the purchase of that series of Parity Securities or a portion thereof by the issuer or obligor of any such Credit Facility. In connection therewith, the County may enter into agreements with the issuer or obligor on any such Credit Facility providing for, among other things, the payment of fees and expenses to such issuer or obligor for the issuance of such Credit Facility, the terms and conditions of such Credit Facility and the series of Parity Securities affected thereby, and the security, if any, to be provided for the issuance of such Credit Facility and the payment of such fees and expenses or the obligations of the County with respect thereto. The County may also, to the extent permitted by then applicable law, enter into an interest rate swap agreement, an interest rate cap agreement, an interest rate floor agreement, an interest rate collar agreement or any similar agreement with respect to any series of Parity Securities or portion thereof.

In addition to any other security permitted by applicable law, the County may, if it elects to do so, secure all or any portion of its contractual obligations with respect to any Credit Facility or any Qualified Swap (any such contractual obligations being herein called "Related Obligations") by a pledge of the Pledged Revenues which may be on a parity with the pledge made in the Indenture (except to the extent that any such pledge secures the payment of any amount payable by the County as a consequence of an early termination of a Qualified Swap) so long as no default exists on the part of the Person providing such Credit Facility or on the part of the related Qualified Swap Provider, as the case may be. Notwithstanding any pledge that may be made pursuant to the preceding sentence, Related Obligations shall not constitute or be treated as Parity Securities for any purpose in applying the provisions of this Indenture (including, without limitation, the conditions precedent to the issuance of Additional Parity Securities contained in Section 10.2 and the covenants contained in Article XII).

## ARTICLE XI

### APPLICATION OF SYSTEM REVENUES AND ESTABLISHMENT OF SPECIAL FUNDS

Section 11.1 **Revenue Account.** There is hereby established a special account in the name of the County, the full name of which shall be the "Jefferson County Sewer System Revenue Account". All System Revenues and all amounts received by the County pursuant to Qualified Swaps shall be deposited in the Revenue Account promptly upon receipt by the County, provided that amounts received by the County as (a) grants or borrowed funds for improvements or extensions to the System, (b) deposits or payments by contractors to offset the cost of extensions or new connections, and (c) customer deposits to ensure payment for utility services may be held by the County in a separate account or accounts pending use thereof for the said purposes.

On or before the last Business Day of each calendar month, the County will apply the moneys in the Revenue Account for the payment of all Operating Expenses that are then due and

that were incurred during the then-current or in any then-preceding calendar month. On or before the various dates specified in Sections 11.2 through 11.5, the County will apply the moneys in the Revenue Account that remain after payment of Operating Expenses for payment into the Debt Service Fund, the Reserve Fund, the Rate Stabilization Fund and the Depreciation Fund, in the order named, of such amounts as are required hereby to be paid therein on or before the pertinent dates specified in the aforesaid sections, to the respective extents provided in such sections and to the extent that moneys on deposit in the Revenue Account are sufficient therefor.

Revenues derived from the Sewer Tax that are deposited into the Revenue Account shall be applied for the payment of Operating Expenses in preference to any other moneys at the time held in the Revenue Account, it being the County's intention and expectation that such tax revenues be applied for no purpose other than the payment of Operating Expenses. No payments or withdrawals shall at any time be made from the Revenue Account other than the transfers, payments or withdrawals provided for in this article.

The Governing Body may at any time and from time to time designate any banking institution or institutions as depository or depositories for the Revenue Account, provided that each such depository so designated shall at all times while acting as such be and remain a member of the Federal Deposit Insurance Corporation or of any agency of the United States of America that may succeed to its functions, if there be any such, and shall be and remain duly qualified to do business in the State of Alabama. Each such depository shall be fully protected in paying out moneys from the Revenue Account on checks, vouchers or drafts signed by any duly authorized officer, employee or agent of the County, and no such depository shall be liable for the misapplication by the County of any moneys so withdrawn if such moneys shall be so withdrawn without knowledge or reason on the part of such depository to believe that such disbursement constitutes a misapplication of funds. So long as no Event of Default shall have occurred and be continuing, the County may combine moneys held in the Revenue Account with other moneys of the County for purposes of custody, safekeeping and investments.

**Section 11.2 Debt Service Fund.** There is hereby established a special trust fund, the full name of which shall be the "Jefferson County Sewer System Debt Service Fund." The Trustee shall be the depository, custodian and disbursing agent for the Debt Service Fund. Out of the moneys on deposit in the Debt Service Fund, the Trustee shall (i) pay the principal of and the interest on those of the Parity Securities for which it serves as Paying Agent, as said principal and interest respectively become due, (ii) make provision for the payment of the principal of and the interest on all other Parity Securities by transferring sufficient moneys to the applicable Paying Agent or Agents on or before the respective dates on which such principal and interest become due and payable, and (iii) pay or make provision for the payment of any Related Obligations (as defined in Section 10.4) that have been secured by a pledge of the Pledged Revenues that is on a parity with the pledge made in the Indenture (any such Related Obligation being herein called a "Secured Related Obligation").

The following amounts shall be transferred and paid into the Debt Service Fund at the following times:

(a) Amounts Referable to Series 1997 Warrants. In order to provide funds for the payment of the principal of and interest on the Series 1997 Warrants, there shall be transferred or paid into the Debt Service Fund, out of moneys held in the Revenue Account [except as otherwise provided in clause (1)], the following amounts at the following times:

(1) simultaneously with the issuance and sale of the Series 1997 Warrants and out of the proceeds derived therefrom, that portion of such proceeds allocable to accrued interest;

(2) on or before the third day preceding August 1, 1997, an amount equal to the difference between (i) the amount of interest on the Series 1997 Warrants that will become due on August 1, 1997, and (ii) the amount deposited in the Debt Service Fund pursuant to the foregoing clause (1);

(3) on or before the third day preceding February 1, 1998, and on or before the third day preceding each February 1 and August 1 thereafter until and including the third day preceding February 1, 2027, an amount equal to the interest becoming due with respect to the then outstanding Series 1997 Warrants on the then next succeeding Interest Payment Date; and

(4) on or before the third day preceding August 1, 1997, and on or before the third day preceding each February 1 and August 1 thereafter until and including the third day preceding February 1, 2027, an amount equal to one-half (1/2) of the principal amount of Series 1997 Warrants maturing or required to be redeemed on the then next succeeding February 1.

(b) Amounts Referable to Series 1997-C Warrants. In order to provide funds for the payment of the principal of and interest on the Series 1997-C Warrants, there shall be transferred or paid into the Debt Service Fund, out of moneys held in the Revenue Account, the following amounts at the following times:

(1) on or before August 15, 1997, and on or before each February 15 and each August 15 thereafter until and including February 15, 2015, an amount equal to the interest becoming due with respect to the then outstanding Series 1997-C Warrants on each such date; and

(2) on or before February 15, 1998, and on or before each February 15 thereafter until and including February 15, 2015, an amount equal to the principal amount of Series 1997-C Warrants maturing or required to be redeemed on each such date.

(c) Amounts Referable to Additional Parity Securities. In order to provide for the payment of the principal of and interest on any Additional Parity Securities, there shall be transferred or paid into the Debt Service Fund the following amounts:



(1) simultaneously with the issuance and sale of such Additional Parity Securities and out of the proceeds derived therefrom, there shall be transferred or paid into the Debt Service Fund that portion of such proceeds allocable to premium (if any) and accrued interest;

(2) there shall be transferred or paid into the Debt Service Fund any portion of the principal proceeds derived from the sale of such Additional Parity Securities that is to be used to pay interest thereon (i.e., capitalized interest), with such capitalized interest to be applied for payment of interest on such Additional Parity Securities according to such schedule and through such arrangements as may be provided in the Supplemental Indenture under which such Additional Parity Securities are issued; and

(3) there shall be transferred or paid into the Debt Service Fund, out of moneys on deposit in the Revenue Account, such moneys as, when added to any other funds provided for the payment of such Additional Parity Securities, shall be necessary to pay the principal and interest maturing with respect to such Additional Parity Securities, as well as the redemption price of such Additional Parity Securities that are required to be redeemed prior to the maturity thereof, such moneys to be paid into the Debt Service Fund in such amounts and on such dates as shall be provided in the Supplemental Indenture under which such Additional Parity Securities are issued.

(d) Amounts Referable to Secured Related Obligations. In order to provide for the payment of Secured Related Obligations, there shall be transferred or paid into the Debt Service Fund, out of moneys on deposit in the Revenue Account, such moneys as shall be necessary to pay such obligations on or before the respective dates on which such obligations become due and payable.

(e) General. There shall be transferred or paid into the Debt Service Fund any other moneys that are expressly required to be transferred or paid therein by the provisions of the Indenture.

There may be credited against any transfer or payment required to be made into either account of the Debt Service Fund pursuant to the preceding provisions of this section any amount then held in such account, but only to the extent that such amount does not itself consist of prior transfers or payments made pursuant to any of the preceding provisions of this section and has not theretofore been credited against any transfer or payment previously required by any of such provisions; provided, however, that moneys in the Debt Service Fund shall not be so credited against any required transfer or payment into such fund if such moneys (i) are held therein for payment of matured but unpaid Parity Securities, Parity Securities called for redemption but not yet redeemed, and matured but unpaid interest on the Parity Securities, (ii) are held therein pursuant to instructions from the County for the future redemption or purchase of Parity Securities, (iii) are held therein for the payment of unmatured Parity Securities not called for redemption if such Parity Securities are considered fully paid pursuant to the provisions of Section 16.1 hereof by reason of the fact that such

moneys are so held in the Debt Service Fund, or (iv) are held therein subject to the provisions of a Supplemental Indenture providing for the issuance of Additional Parity Securities which requires such moneys to be credited in a manner inconsistent with the provisions hereof, in which case such moneys shall be credited in the manner provided by such Supplemental Indenture.

Subject to the provisions of Section 11.8 hereof, the Trustee shall hold and apply moneys in the Debt Service Fund for the payment of principal of and interest on the Parity Securities on or after the respective due dates of such principal and interest, for the redemption of Parity Securities prior to their maturity, and for the purchase of Parity Securities for retirement at a purchase price not greater than the original principal amount thereof plus accrued interest thereon. The Trustee shall pay or provide for the payment of the principal and interest maturing with respect to the Parity Securities, as well as the redemption price of any Parity Securities that are required by the provisions of the Indenture to be redeemed prior to the stated maturity thereof, out of the moneys held in the Debt Service Fund, as and when such principal, interest or redemption price shall be due and payable.

The County and the Trustee covenant that (i) all funds transferred to or deposited in the Debt Service Fund shall be applied to the payment of the principal and premium (if any) and interest on the Parity Securities within twelve months from the date of such transfer or deposit and (ii) all income and profits received from the investment of moneys in the Debt Service Fund shall be applied to the payment of the principal and premium (if any) and interest on the Parity Securities within twelve months from the date of receipt of such income or profits.

Section 11.3 **Reserve Fund.** There is hereby established a special trust fund, the full name of which shall be the "Jefferson County Sewer System Debt Service Reserve Fund". The Trustee shall be the depository, custodian and disbursing agent for the Reserve Fund. Simultaneously with the delivery hereof, the County shall cause to be deposited into the Reserve Fund proceeds of the Series 1997-A Warrants in the amount of \$19,323,212.94 and proceeds of the Series 1997-B Warrants in the amount of \$4,396,800.06.

If on the first Business Day of any calendar month the total amount held in the Reserve Fund is less than the Reserve Fund Requirement, then, on or before the fifteenth day of such calendar month, the County shall pay into the Reserve Fund (from any moneys remaining in the Revenue Account after there shall have been made therefrom all payments required to be made during such month into the Debt Service Fund) an amount obtained by dividing (i) the amount by which the Reserve Fund Requirement exceeds the amount then held in the Reserve Fund by (ii) the number of months between the first day of such calendar month and the last day of the fifth calendar month next succeeding that during which the amount held in the Reserve Fund is first determined to be below the Reserve Fund Requirement, all to the end that the monthly amounts to be paid into the Reserve Fund pursuant to this paragraph will cause any deficiency in the Reserve Fund to be restored within six months after such deficiency first occurred.

In the event that the County hereafter issues any Additional Parity Securities that are secured by the Reserve Fund, the County will cause to be added to the moneys then on deposit in the



Reserve Fund an amount equal to the difference obtained by subtracting (a) the Reserve Fund Requirement immediately prior to the issuance of those of the Additional Parity Securities that have been most recently issued from (b) the Reserve Fund Requirement immediately following the issuance of those of the Additional Parity Securities that have been most recently issued. Any such addition of moneys to the Reserve Fund that is required to be made in connection with the issuance of any such Additional Parity Securities may be effected through any of the following methods:

(i) a single deposit to the Reserve Fund out of the proceeds of the Additional Parity Securities with respect to which such deposit is required to be made, such deposit to be made at the time of issuance of such Additional Parity Securities;

(ii) a series of ten (10) equal semiannual deposits to the Reserve Fund out of the moneys remaining in the Revenue Account after compliance with the then applicable provisions of Section 11.2 hereof, such deposits to be made on or before the February 15 or August 15, as the case may be, next succeeding the month during which the Additional Parity Securities with respect to which such deposits are required to be made were issued and on or before each February 15 and each August 15 thereafter until the ten (10) required deposits have been made; or

(iii) any series of deposits to the Reserve Fund out of the moneys remaining in the Revenue Account after compliance with the then applicable provisions of Section 11.2 hereof that will result in the moneys required to be added to the Reserve Fund being accumulated at a faster rate than the series of deposits described in the foregoing clause (ii).

If, upon the issuance of any Additional Parity Securities, any required addition of moneys to the Reserve Fund is effected through a method described in the preceding clause (ii) or (iii), then the Reserve Fund shall be divided into two or more accounts and all moneys and securities held in the Reserve Fund upon the issuance of such Additional Parity Securities shall be allocated first on a proportionate basis to the account or accounts that secure those of the Parity Securities that were outstanding prior to the issuance of such Additional Parity Securities, until each such account is funded in an amount equal to the Reserve Fund Requirement for those of the Parity Securities to which such account is referable, and the balance of such moneys and securities shall be allocated to the account that secures such Additional Parity Securities.

The moneys on deposit in the Reserve Fund shall be used to pay interest coming due on the Parity Securities secured thereby on any Interest Payment Date, or to pay the principal of such Parity Securities as it comes due, whether at maturity or by mandatory redemption, but only in the event that, at the time of any Interest Payment Date, the moneys then held in the Debt Service Fund shall be insufficient for the said payments; provided, however, that, if any of the Parity Securities are issued in a form which permits the holders thereof to require the County or an agent thereof to purchase such Parity Securities prior to maturity, moneys in the Reserve Fund shall not be used to effect any such mandatory purchase or to pay the principal of any such Parity Securities which become due solely because of an inability to remarket them following any such mandatory purchase.

In no event shall any moneys withdrawn from the Reserve Fund be used to provide for the payment of any principal of or interest on the Series 1997-C Warrants.

If on any date on which a valuation of the investments held in the Reserve Fund is made the amount on deposit in the Reserve Fund exceeds the Reserve Fund Requirement, the Trustee shall withdraw the amount of such excess and deposit the same in the Debt Service Fund. The Governing Body hereby finds and determines that the Reserve Fund will constitute a reasonable reserve for payment of principal of and interest on the Parity Securities and that the period of time herein provided for the restoration of any deficiency in the Reserve Fund will constitute a reasonable period for the restoration of any such deficiency.

The Reserve Fund Requirement may be satisfied, in whole or in part, with an insurance policy, surety bond or letter of credit that satisfies the various requirements specified in Section 11.11 of this Indenture.

**Section 11.4 Rate Stabilization Fund.** There is hereby established a special trust fund, the name of which shall be the "Jefferson County Sewer System Rate Stabilization Fund." The Governing Body may at any time and from time to time designate any banking institution or institutions as depository or depositories for the Rate Stabilization Fund, provided that each such depository so designated shall at all times while acting as such be and remain a member of the Federal Deposit Insurance Corporation or of any agency of the United States of America that may succeed to its functions, if there be any such, and shall be and remain duly qualified to do business in the State of Alabama. Simultaneously with the issuance of the Series 1997 Warrants, the County shall deposit into the Rate Stabilization Fund the sum of \$10,000,000 from moneys that are not proceeds of the Series 1997 Warrants or of any other obligations of the County.

At any time when the total amount held in the Rate Stabilization Fund is less than the Rate Stabilization Fund Requirement, the County shall pay into the Rate Stabilization Fund from the Revenue Account, on or before each February 15 and each August 15 and after there shall have been made from the Revenue Account all payments required to be made on or before such date into the Debt Service Fund and the Reserve Fund, an amount equal to 10% of the then effective Rate Stabilization Fund Requirement (or such lesser amount as shall result in the amount held in the Rate Stabilization Fund being equal to the Rate Stabilization Fund Requirement). In addition, the County may from time to time deposit into the Rate Stabilization Fund other moneys that do not constitute System Revenues.

The County may, from time to time at the election of the County's Director of Finance, transfer moneys from the Rate Stabilization Fund into the Revenue Account.

**Section 11.5 Depreciation Fund.** There is hereby established a special trust fund, the name of which shall be the "Jefferson County Sewer System Funded Depreciation Fund." The Governing Body may at any time and from time to time designate any banking institution or institutions as depository or depositories for the Depreciation Fund, provided that each such

depository so designated shall at all times while acting as such be and remain a member of the Federal Deposit Insurance Corporation or of any agency of the United States of America that may succeed to its functions, if there be any such, and shall be and remain duly qualified to do business in the State of Alabama.

At any time when the total amount held in the Depreciation Fund is less than the amount of accumulated depreciation referable to the System (as known in the then most recent audited financial statements of the County), the County shall pay into the Depreciation Fund from the Revenue Account, on or before each February 15 and each August 15 and after there shall have been made from the Revenue Account all payments required to be made on or before such date into the Debt Service Fund, the Reserve Fund and the Rate Stabilization Fund, the sum of \$5,000,000. If on any such date the moneys available in the Revenue Account are not sufficient to permit a deposit of said sum into the Depreciation Fund, such shortfall shall not increase the required amount of any subsequent deposit to the Depreciation Fund. Moneys held in the Depreciation Fund may be withdrawn from time to time by the County, but only to pay the costs of System Improvements or to purchase or redeem Parity Securities.

**Section 11.6 Surplus Revenues.** After making the transfers and payments required by Sections 11.1 through 11.5 hereof, and after making good any delinquency or deficit existing in the Debt Service Fund or the Reserve Fund by reason of withdrawals therefrom or the failure during any prior period to pay therein the amounts respectively required to be paid therein by the provisions of Sections 11.2 and 11.3 hereof, the balance remaining in the Revenue Account on each February 15 and each August 15 shall be deemed "surplus revenues" and may be withdrawn from the Revenue Account by the County and used for any lawful purpose related to the County's ownership and operation of the System.

For purposes of this section a deficiency in the Debt Service Fund or the Reserve Fund shall be the difference between the amount then held in such fund and the amount scheduled to be held therein pursuant to the respectively applicable provisions of Section 11.2 or 11.3 hereof.

**Section 11.7 Redemption Fund.** There is hereby created a special trust fund, the name of which shall be the "Jefferson County Sewer System Redemption Fund" and which shall be maintained as long as any of the Parity Securities are outstanding. There shall be paid into the Redemption Fund only such moneys as are herein expressly required to be paid therein. The Trustee shall, subject to the provisions of Section 11.8 hereof, use and apply the moneys in the Redemption Fund solely for the purpose of redeeming Parity Securities prior to their maturity; provided that if at any time the aggregate of available moneys held in the Debt Service Fund shall not be sufficient to pay the principal of or the interest on any of the Parity Securities at the respective maturities of such principal and interest or the redemption price of any of the Parity Securities on the date on which, under the terms hereof, they are required to be redeemed, then the moneys held in the Redemption Fund shall be used to pay said principal or interest so maturing or the redemption price of any such Parity Securities, but only to such extent as may be necessary to prevent default in the payment thereof.



Not more than sixty (60) days and not less than forty-five (45) days prior to each Interest Payment Date, the Trustee will determine the amount then held in the Redemption Fund, and if such amount is sufficient to effect the redemption of at least \$5,000 in principal amount of Parity Securities, the Trustee shall so notify the County, whereupon the County will take such action as may be necessary under the provisions hereof to exhaust, as nearly as may be practicable, the moneys held in the Redemption Fund by effecting the redemption of Parity Securities on the earliest practicable date thereafter on which such redemption may be effected.

**Section 11.8 Investment of Indenture Fund Moneys.** Moneys on deposit in the Indenture Funds shall be invested by the Trustee or the depository therefor in accordance with the succeeding provisions of this section in Eligible Investments; provided, however, that the moneys at any time held in the Debt Service Fund may be invested only in Federal Obligations having stated maturities, or being redeemable at the option of the holder thereof at a stated price and time, not later than the date upon which such moneys will be needed for the payment of principal of or interest on the Parity Securities. The investments held in each of the other Indenture Funds shall have such maturities as shall result in the availability at all times of sufficient cash moneys for the various purposes to be served by each of such funds.

Subject to the limitations imposed by the provisions of the first paragraph of this section, the County hereby reserves the right to control the investment of the moneys at any time on deposit in the Indenture Funds and hereby designates the County's Director of Finance as its representative for the purpose of communicating investment decisions to the Trustee. In particular, and without limiting the generality of the foregoing, County's Director of Finance may from time to time specify to the Trustee the types and maturities of the Eligible Investments to be acquired with the moneys held in the Indenture Funds, the price to be paid for such investments and the securities dealer or dealers from which such investments are to be acquired. So long as such directions from the County's Director of Finance are not inconsistent with the provisions of the first paragraph of this section, the Trustee will acquire the specified investments from the specified dealer or dealers and at any specified price, regardless of its opinion as to the prudence of such investments or its ability to acquire such investments upon more favorable terms from another source; provided, however, that the County's Director of Finance shall have no right to require, and the Trustee shall be prohibited from making, any investment that would result in any of the Parity Securities being considered "arbitrage bonds" within the meaning of Section 148 of the Code and the applicable regulations thereunder. In the absence of general or specific investment directions from the County's Director of Finance, the Trustee shall invest the moneys held in the Indenture Funds in accordance with its general practices respecting the investment of public moneys held in trust. The Trustee shall not be liable or responsible for any loss resulting from any investment made in accordance with the provisions of this paragraph.

All Eligible Investments in which any portion of the moneys in any Indenture Fund are invested, together with all income therefrom, shall become a part of the particular Indenture Fund from which moneys were used to make such investment; provided that (a) so long as the balance in the Reserve Fund is equal to the Reserve Fund Requirement, any income or profits derived from the investment of moneys held in the Reserve Fund shall be transferred to the Debt Service Fund

Primary Account and (b) so long as the balance in the Rate Stabilization Fund is equal to the Rate Stabilization Fund Requirement, any income or profits derived from the investment of moneys held in the Rate Stabilization Fund shall be paid to the County.

**Section 11.9 Commingling of Moneys in Separate Indenture Funds.** Any provision hereof to the contrary notwithstanding, moneys on deposit in any Indenture Fund may be commingled and combined with moneys in any of the other Indenture Funds for the purpose of making investments under the provisions of Section 11.8 hereof, subject to the following conditions:

(a) all interest, income or profit realized from any such commingled investment shall be credited, and all losses resulting therefrom shall be charged, to each such fund in the same respective proportions as the amount invested from each such fund bears to the total amount so invested (subject, however, to the provisions of the said section which, under certain circumstances, provide for a different disposition of the earnings from the Reserve Fund or the Rate Stabilization Fund); and

(b) no moneys forming a part of any such fund shall be invested in any investments other than such as are expressly authorized herein.

**Section 11.10 Valuation of Indenture Funds.** Any investments constituting a part of the Indenture Funds shall, for purposes of this Indenture, be valued at their fair market value (exclusive of accrued interest), except that any investments having a term of less than six months may be valued at par. The Trustee shall make a valuation of investments in the Reserve Fund on the first Business Day of each calendar month and at such other times as the County may request or as may be necessary to ascertain compliance with the provisions of the Indenture. If as a result of such valuation the balance in such fund is determined to be less than the balance required to be maintained therein under the terms of this Indenture, then monthly transfers to such fund shall be resumed and continued as required by Section 11.3 hereof.

**Section 11.11 Reserve Fund Surety Requirements.** The County may satisfy all or a portion of the Reserve Fund Requirement by the deposit with the Trustee of a surety bond, insurance policy or letter of credit that satisfies the succeeding requirements of this Section 11.11.

A surety bond or insurance policy issued to the Trustee by a company licensed to issue insurance policies guaranteeing the timely payment of debt service on municipal bonds (a "municipal bond insurer") may be deposited in the Reserve Fund to meet the Reserve Fund Requirement if the claims paying ability of the issuer thereof is rated "AAA" or "Aaa" by S&P or Moody's, respectively. A surety bond or insurance policy issued to the Trustee by an entity other than a municipal bond insurer may be deposited in the Reserve Fund to meet the Reserve Fund Requirement if the form and substance of such instrument and the issuer thereof are approved by the Bond Insurer.

An unconditional irrevocable letter of credit issued to the Trustee by a bank may be deposited in the Reserve Fund to meet the Reserve Fund Requirement if the issuer thereof is rated at least "AA" by S&P or "Aa" by Moody's. Any such letter of credit shall be payable in one or more draws upon presentation by the Trustee of a sight draft accompanied by its certificate that it then holds insufficient funds to make a required payment of principal of or interest on the Parity Securities. Any such draw shall be payable within two days of presentation of the related sight draft. Any such letter of credit shall be for a term of not less than three years. The issuer of any such letter of credit shall be required to notify the County and the Trustee, not later than 30 months prior to the stated expiration date of such letter of credit, as to whether such expiration date will be extended, and if so, shall indicate the new expiration date. If any such notice indicates that the expiration date will not be extended, the County shall deposit in the Reserve Fund an amount sufficient to cause the cash or Eligible Investments on deposit in the Reserve Fund, together with any other qualifying credit instruments, to equal the Reserve Fund Requirement on all outstanding Parity Securities, such deposit to be paid in equal installments on at least a semi-annual basis over the remaining term of the letter of credit, unless the letter of credit in question is replaced by another Reserve Fund credit instrument. Any letter of credit in the Reserve Fund shall permit a draw in full not less than two weeks prior to the expiration or termination of such letter of credit if the letter of credit has not been replaced or renewed. The Trustee shall, in turn, draw upon the letter of credit prior to its expiration or termination unless an acceptable replacement is in place or the Reserve Fund is fully funded in its required amount. The use of any Reserve Fund credit instrument pursuant to this section shall be subject to receipt of an opinion of counsel acceptable to the Bond Insurer and in form and substance satisfactory to the Bond Insurer as to the due authorization, execution, delivery and enforceability of such instrument in accordance with its terms, subject to applicable laws affecting creditors' rights generally, and, in the event the issuer of such credit instrument is not a domestic entity, an opinion of foreign counsel in form and substance satisfactory to the Bond Insurer. In addition, the use of an irrevocable letter of credit to satisfy all or a portion of the Reserve Fund Requirement shall be subject to receipt of an opinion of counsel acceptable to the Bond Insurer and in form and substance satisfactory to the Bond Insurer to the effect that payments under such letter of credit would not constitute avoidable preferences under Section 547 of the United States Bankruptcy Code or similar state laws with avoidable preference provisions in the event of the filing of a petition for relief under the United States Bankruptcy Code or similar state laws by or against the County.

The obligation to reimburse the issuer of a Reserve Fund credit instrument for any fees, expenses, claims or draws upon such Reserve Fund credit instrument shall be subordinate to the payment of debt service on the Parity Securities. The right of the issuer of a Reserve Fund credit instrument to payment or reimbursement of its fees and expenses shall be subordinated to cash replenishment of the Reserve Fund, and, subject to the second succeeding sentence, its right to reimbursement for claims or draws shall be on a parity with the cash replenishment of the Reserve Fund. Any Reserve Fund credit instrument shall provide for a revolving feature under which the amount available thereunder will be reinstated to the extent of any reimbursement of draws or claims paid. If the revolving feature is suspended or terminated for any reason, the right of the issuer of the Reserve Fund credit instrument to reimbursement will be further subordinated to cash replenishment of the Reserve Fund to an amount equal to the difference between the full original amount available under the Reserve Fund credit instrument and the amount then available for further